

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
MISCELLANEOUS NO. 3:07MC157**

ORDER

**IN RE: HONORABLE MARTIN REIDINGER, PRESIDING
JUDGE, REFERRALS TO MAGISTRATE JUDGES**

THIS MATTER is before the Court on its own motion regarding the referral of motions, and other duties, to Magistrate Judges serving in this district pursuant to 28 U.S.C. § 636.

REGARDING CRIMINAL CASES, IT IS ORDERED THAT pursuant to 28 U.S.C. § 636 (a) and (b), and Local Rule LCrR57.1, in criminal cases assigned to the undersigned United States District Judge, the Magistrate Judges shall be specifically referred the following duties:

- 1) To accept guilty pleas or conduct trials on misdemeanor offenses for which the maximum term of imprisonment is one year or less, if the defendant has consented to proceed before a Magistrate Judge and if such consent is necessary under 28 USC §636 or 18 USC §3401;
- 2) To accept tendered guilty pleas on felony offenses subject to acceptance by the District Court. On a case-by-case basis, and for the convenience of the parties, the undersigned may accept guilty pleas in cases during regularly scheduled terms of court;
- 3) To conduct hearings pursuant to 18 U.S.C. § 3142, and 28 U.S.C. §

636(a)(2) provided that upon notice that a party intends to file an appeal of or a motion for revocation of a release order or amendment of the conditions of release, pursuant to 18 U.S.C. § 3145, any release order shall be stayed pending disposition by the District Judge;

- 4) To enter a final order on any other non-dispositive criminal pretrial motions, subject only to review by the District Court for clear error (if properly appealed);
- 5) To make findings of fact, conclusions of law, and to recommend disposition of any dispositive criminal motion, including suppression motions through submission of a Memorandum and Recommendation to the District Judge;
- 6) To perform all other duties as authorized in Local Rule LCrR57.1 that are not contrary to the specific duties as set forth within this order.

IT IS FURTHER ORDERED THAT:

- 7) Upon publication of the notice of trial for a matter, all trial-related motions such as motions in limine, motions for issuance of subpoenas pursuant to Fed.R.Crim.P.17(b), etc., shall be directed to the District Judge for disposition; and
- 8) Upon publication of the notice of trial for a matter, motions to continue cases from the trial calendar shall be directed to the District Judge.

REGARDING CIVIL AND MISCELLANEOUS CASES, IT IS ORDERED

THAT,

pursuant to 28 U.S.C. §636(b) and Local Rule LR72.1, in civil and miscellaneous cases assigned to the undersigned United States District Judge, the Magistrate Judge shall be specifically referred the following duties:

- 1) To preside over any initial pretrial conference requested by the parties, or in the absence of such request, any initial pretrial conference which in the discretion of the Magistrate Judge would be conducive to effective case management, and issue all initial pretrial scheduling orders as a result of the conference or filing of the proposed discovery plan as authorized by Local Rule LR16.1(B);
- 2) To dispose of any civil pretrial motions pertaining to discovery, including any motion for sanctions under Rule 37(b) arising out of these referred motions, motions for protective orders, and motions to quash; motions to amend; motions to strike, and all other non-dispositive pre-trial motions subject only to review by the District Court for clear error (if properly appealed), provided, however, that all motions in limine, motions regarding the qualifications of expert witnesses (Daubert Motions) and motions for special admission and admission *pro hac vice* per LR83.1 shall not be referred and shall be addressed by the District Judge,;

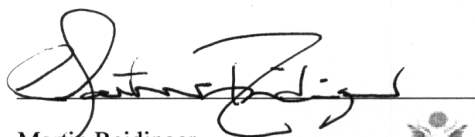
- 3) To make findings of fact, conclusions of law, and to recommend disposition of any motions filed for sanctions, motions to remand, and all Rule 12(b) and 12(c) motions, including motions to dismiss for lack of jurisdiction over the subject matter, lack of jurisdiction over the person, improper venue, insufficiency of process, insufficiency of service of process, failure to state a claim upon which relief can be granted, and failure to join a party under Rule 19;
- 4) Notwithstanding the above provisions, the following matters may be referred by the Court, but only on a case-by-case basis: 1) to make recommendations in dispositive motions in patent cases, 2) to make findings of fact, conclusions of law, and to recommend disposition of any dispositive motion filed in Social Security Appeals and ERISA cases, 3) to hear such evidence and rule upon such matters involving temporary restraining orders and preliminary injunctions and 4) to make recommendations regarding the disposition of bankruptcy appeals, through submission of a Memorandum and Recommendation to the District Judge, and 5) to rule upon non-dispositive motions in patent cases and ERISA cases;
- 5) To enter orders involving any post-judgment execution proceedings; and
- 6) To perform all other duties as authorized in Local Rule LR72.1 which

are not contrary to the specific duties as set forth within this order.

IT IS FURTHER ORDERED THAT:

- 7) Motions to continue cases from the trial calendar shall be directed to the District Judge.
- 8) Summary judgment motions will not automatically be referred to a Magistrate Judge; rather, the Court will refer such motions on a case-by-case basis for a recommended disposition; and
- 9) This Court retains the option to designate certain dispositive motions filed in civil cases for referral to a Magistrate Judge in the discretion of this District Judge on a case-by-case basis. The referral of a specific civil dispositive motion will be communicated to the Deputy Clerk and the parties by a separate Order of Reference on the pending dispositive matter authorizing the Magistrate Judge to make findings of fact, conclusions of law, and to recommend disposition of the matter.

This the 27th day of November 2007



Martin Reidinger
United States District Judge

